IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3414 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE PRADIP KUMAR SARKAR

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BHATTI MITESH DILIPKUMAR

Versus

SAURASHTRA UNIVERSITY

Appearance:

Special Civil Application No. 3414 of 2001

MR BD KARIA for Petitioner No. 1-2

MR AR THACKER for Respondent No. 1

MR SN BHATT GOVT PLEADER for Respondent No. 2

CORAM : MR.JUSTICE PRADIP KUMAR SARKAR

Date of decision: 23/07/2001

CAV JUDGEMENT

1. Heard Mr. P.M. Thakkar, Learned Sr. Counsel with Mr. B.D. Karia, learned counsel appearing on behalf of the petitioners, and Mr. J.R. Nanavati, Learned Sr. Counsel with Mr. A.R. Thacker, Learned counsel appearing on behalf of Respondent No.1 Saurashtra University and Mr. Sandip Bhatt, Learned AGP appearing for Respondent No.2.

2. Rule. Mr. J.R. Nanavati and Mr. S.N. Bhatt, waives service of rule on behalf of Respondent No. 1 & 2 respectively.

3. The petitioners appeared in the final year MBBS examination in November, 1999 and they were declared failed. However the petitioners applied for re-checking of their marks on 11-2-2000. Saurashtra University by

letter dated 25-4-2000 declared the petitioenrs as passed. In rechecking the marks were increased and added and they were declared as passed and accordingly the University issued fresh marksheet to the petitioners. The respondent No.2 by letter dated 1-5-2000 posted the petitioners for compulsory rotating internship training for one year. The other students who have declared passed in November 1999 they were put in for internship in February 2001, but as the petitioners were declared passed after reassessment in the examination, they were started internship in May 2000. The petitioners applied for admission to P.G. Medical course along with other candidates. The respondent University declared merit list of meritorious students for P.G. course in July 2001. However, name of petitiones were not included as they could not complete one year internship in February 2001. The petitioners completed their internship in May 2001. It is also stated that the admission for academic session commencing from 1-2-2001 has not commenced, as the case is pending in the High Court. It is accordingly submitted that, since the admission is not closed and in the meantime the petitioners have completed their internship, they should also be considered for admission to P.G. Medical course. It is stated that the petitioners are not at fault in not including their names in the merit list for admission to P.G. Medical course, though they are in time and therefore, petitioners prayed for a direction to respondent University to include their names in the merit list for admission to P.G. Medical course.

4. The respondent University has filed their reply wherein that have denied the allegation made by the petitioners. It is stated that the result of the final MBBS of 1999 was declared on 6-2-2000 and the petitioners were declared failed. However, when they have prayed for reassessment, their papers were sent to another University for reassessment of the answer sheets. In the reassessment the marks of the petitioners were increased and consequently they were declared passed in April 2000. The petitioners were put to compulsory internship in May 2000 and they have completed their one year internship training in May 2001. It is stated that the petitioners are not eligible for being included in the merit list of April 2001 as they could not complete their one year internship in February 2001, therefore the petitioners will be eligible only after completion of their one year internship for admission in P.G. Medical course. It is submitted that the modification of the result of the petitioners on account of reassessment of the answer books cannot be attributed as fault on the part of

respondent No.1 University. They cannot claim that they have passed 1999 November MBBS examination, the result of which has been declared in February 2000. Petitioners were declared passed only in April 2000, but other candidates who passed November 1999 MBBS examination has started their internship in February 2000 and they have completed their one year internship in February 2001.

5. Mr. P.M. Thakkar, learned senior counsel appearing on behalf of the petitioners submitted that the petitioners are aspiring for admission in P.G. Medical course and the admission in January 2001 session has not yet started and the petitioners have already completed their one year internship in May 2001. Therefore the petitioners should be considered for inclusion of their names in the merit list for admission in P.G. Medical course.

6. Mr. J.R. Nanavati, learned senior counsel appearing on behalf of the respondent Saurashtra University submitted that in Rule 2A of the Admission Rules of the Saurashtra University for P.G. Medical course it has been laid down that, a candidate who has completed one year internship after passing final year MBBS examination shall be eligible for admission in P.G. Medical course. It is also submitted by Mr. Nanavati that the University invited applications for admission to P.G. Medical course on 16-3-2001 for the academic session commencing from May 2001, the last date for receiving application was 31-3-2001. It is submitted by Mr. Nanavati that on the last date of receipt of application only eligible candidates who have passed MBBS and has completed one year internship are eligible to apply for admission in P.G. Medical course in the session commencing from May 01, 2001. It is submitted by Mr. Nanavati that the petitioners started their internship in May 2000 and has completed one year internship in May 2001. Consequently Mr. Nanavati submitted that the petitioners were not eligible to apply for admission in P.G. Medical course, the last date of which has been declared as 31-3-2001. Mr. Nanavati further submitted that the next session of P.G. Medical admission course will commence from 1st July 2001 and the petitioners can apply for admission in P.G. Medical course for that session.

7. It is an admitted fact that because of some litigation regarding merit list, the University was not in a position to complete the admission but in usual course the University could have finalised the admission in April-May itself, and the sessions could have been

started by that time. The only question that requires a decision in the case is, whether a person not eligible on the last date of receipt of application for admission to P.G. Medical course, can claim for admission in the said course by virtue of his eligibility acquiring subsequent to last date of receiving application form. The answer is "NO" . When advertisements are issued inviting applications for admission on any course of study or for any job, then on the last date of application the candidates must fulfil the eligibility criteria. Otherwise their applications are liable to be rejected in limine. In the instant case the last date for submitting application for admission in P.G. Medical course was fixed on 31-3-2001. Therefore the candidates who have completed one year internship after passing final MBBS examination before 31-3-2001 are only eligible for making application for admission to P.G. Medical course. Admittedly the petitioners completed their one year internship in May 2001. Therefore, I am of the view that on the last date of application the petitioners were not eligible for making an application for admission in P.G. Medical course. It is true that the petitioners were initially declared failed in November 1999 MBBS examination, when the results were declared inFebruary 2000, but because of reassessment and increase of number in the answer sheet they were declared passed in April 2000. But the fact remains that they had started their one year internship in May and completed the same in May 2001. The other MBBS students who were declared passed in February 2000 started their internship in February 2000 itself and completed one year internship in February 2001. Therefore when the advertisement was issued in March 2001, as per Rule 2A of the Admission Rules of the University, they were not eligible for admission to P.G. Medical course as they have not completed one year internship in February 2001 after passing MBBS examination, but their results were declared in April 2000 and their one year rotational internship would be completed only in May 2001. Therefore they cannot be equated with the students who have completed their internship in February 2001. The final test for determination of the question is that a candidate must fulfil eligible criteria on the last date of receipt of application. In the instant case the petitioners were not eligible for admission to P.G. course as per the Rule of the Saurashtra University. Therefore it cannot be said that the University has committed an illegality in not including names of the petitioners for admission in P.G. Medical course.

8. Mr. Thakkar,learned senior counsel for the

petitioners blamed the respondent University for declaring the petitioners as failed on the ground that the answer papers of the petitioners were not properly evaluated. I do not find any force in the submission of Mr. Thakker, because, in the case of other students who have passed were also evaluated by the same examiner of the Saurashtra University. According to the standard of Saurashtra University the petitioners were declared failed. However for the reassessment of the answer sheets of petitioners were sent to another University and according to the assessment of the another university the marks of the petitioners were increased and this has been accepted by respondent Saurashtra University and they were declared passed. When the answer sheets are evaluated by the Professors of different University the assessment may vary because different Universities maintains slightly different standards in evaluating the answer sheets. The answer sheets of the petitioners were evaluated by the Professors of Saurashtra University along with other candidates who were declared passed, but according to the standard of the Saurashtra University petitioners were declared failed. Since in reassessment by the another University the marks were increased, it cannot be said that the Saurashtra University has not properly evaluated the answer sheets of petitioners. It is true that the admission in P.G. course of January 2001 sessions has not completed, but that cannot be a ground for considering case of the petitioners who could not earn their eligibility on the last date of receipt of application for admission to P.G. Medical course. Whatever may be the reason, the fact remains that, on the last date of receipt of application the petitioners were not eligible to apply for admission in P.G. Medical course and therefore, they cannot claim that their applications should be considered along with other applicants who were eligible on the last date of receipt of application. Consequently I do not find any merit in the petition and accordingly, the petition is dismissed. Rule discharged. However, I make no order as to costs.

Dt: 23-7-2001 (P.K. Sarkar, J)

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